SECTION 102 OBJECTIONS

The examiner has rejected claims 1-6 per *35 USC §102(B)* per the Keeney(US007027655B2).

> "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." ***Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.***, 221 USPQ 481, 485 (Fed. Cir. 1984)

The Examiner indicates that Keeney has all the elements of applicant's claim 1.

Applicant's method relates to interacting television and makes it possible to increase the ratio between the volume of useful video information and the total volume of video information transmitted to individual and grouped users based on the real time, current, perceptions of the users using sensors monitoring eye perception. Based on the sensor detected perception communicating the subsequent video communicated to the user is adjusted provide that which the user can perceive.

Based on the sensor determining resolution characteristics, in one eye of the user with respect to the video image formed by the information display component and perceived by the one eye of said user, the sensor dynamically determines coding characteristics, and in a feedback loop signals having the coding characteristics are communicated to, at least one computing component. The computer generates an interrogation taking into account eye resolution of the image of the user and a group of users, and makes a concurrent adjustment in the forming of video signals, converting of video signals and forming of the video image presented to the viewing users. (See drawings and specification)

The cited art of Keeney has no such feedback loop and concurrent adjustment of the signal producing the image for the users and such is not shown in the drawings or the specification.

Thus, claim 1 and all claims subordinate thereto have elements lacking from the cited art. As such the objection to claims per Keeney are respectfully traversed.

SECTION 103 OBJECTIONS

The Examiner has rejected claims 1-3, 8-10, and 15 pursuant to section 103 as being unpatentable per Keeney in view of Griepentrog.

To establish a prima facie case of obviousness, three basic criteria must be met.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Applicant has noted that Keeney lacks elements of Applicant's claimed method and therefor any combination would also lack all the elements of Applicant's method. Lacking elements of applicant's claimed invention, the objection to the claims pursuant to Section 103 are respectfully traversed.

Final Remarks

Applicant's application claims a method for real time adjustment of video transmissions based on users or viewers eye perception and as noted in the specification considers it a great leap forward to customizing video for users I real time and lowering bandwith requirements.

However, even if the Examiner does not consider Applicant's claimed feedback loop to adjust video to user's eye perception a great advance, it has been established that one should not be deprived of patent protection where it can be shown that a genuine improvement has been made, on comparison with other intentions in the art, *even if the improvement lacks the appearance of a great advance in the art*. In re Lange, 128 USPQ 365, the CCPA on page 367 states that:

> "We think that the present application is a distinct improvement of Jezalik and represents an advance in the art not obvious, having patentable novelty. The art is a crowded and comparatively simple on and in such an art, great advances are not to be expected. *However patentability will not be denied to an invention which accomplishes a small, but nevertheless genuine improvement not though of by others..*"

Further, the CCPA in the case of re Meng and Driessen, 181 USPQ 94, on page 97, reiterated the principal that even though the invention seems a simple advance over prior art, *after the fact*, simplicity, argues *for*, rather than against patentabilty.

Considering that Applicant's communications channel for facilitating ascertaining user eye perception of video being presented and subsequent real time adjustment to video signals, has elements neither taught or suggested in the cited prior art, and, considering that even minor improvements in the art, argue *for* patentability, the remaining claims of the patent should now be allowable.

Should the Examiner have any further questions or concerns the Examiner wishes to address by Examiner's amendment by telephone or otherwise, or should the Examiner have suggestions to more clearly define the subject matter of the claims to more clearly define the patentable subject matter, the Applicant's attorney would be most receptive to such.

Respectfully submitted,

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